

Craig A. Livingston (SBN 148551)  
Amy E. Blair (SBN 292238)  
LIVINGSTON LAW FIRM  
A Professional Corporation  
1600 South Main Street, Suite 280  
Walnut Creek, CA 94596  
Tel: (925) 952-9880  
Fax: (925) 952-9881  
Email: clivingston@livingstonlawyers.com  
ablair@livingstonlawyers.com  
Attorneys for Defendant  
ELECTRIC BIKE TECHNOLOGIES, INC.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ERIKA STEINWAND, Individually and as	) Case No.
Successor in Interest to the Estate of	)
Decedent ENRIQUE SY,	) <b>PETITION FOR REMOVAL OF</b>
	) <b>ACTION PURSUANT TO 28 U.S.C.</b>
Plaintiff,	) <b>§ 1441(b) [DIVERSITY]; DEMAND FOR</b>
	) <b>JURY TRIAL</b>
v.	)
	) [Sacramento Superior Court Case No.
ELECTRIC BIKE TECHNOLOGIES INC.,	) 23CV009398]
ROCHELLE SY, KRISTINE YULO, and	)
DOES 1 through 50, inclusive,	)
	)
Defendants.	)
	)

TO THE CLERK OF THE ABOVE-CAPTIONED COURT:

PLEASE TAKE NOTICE that defendant ELECTRIC BIKE TECHNOLOGIES INC.  
(hereinafter “ELECTRIC BIKE”) hereby removes to this Court the state court action described  
below.

**JURISDICTION**

1. This wrongful death and survival action arises out of a November 30, 2021  
incident in which plaintiff’s decedent, ENRIQUE SY, fell from an electric trike manufactured by  
defendant ELECTRIC BIKE and sustained injuries from which he succumbed approximately  
two months later. See, Complaint ¶ 9. The incident occurred “in the parking lot of the residential

---

*Erika Steinwand v. Electric Bike Technologies Inc., et al.* – Case No.  
PETITION FOR REMOVAL OF ACTION PURSUANT TO 28 U.S.C. § 1441(b) [DIVERSITY]; DEMAND FOR  
JURY TRIAL

1 community in Sacramento, California, where he lived.” *Id.* Plaintiff’s decedent, then, was a  
2 resident of the State of California.

3 2. Defendant ELECTRIC BIKE is a corporation incorporated and organized under  
4 the laws of the State of Pennsylvania, whose principal place of business is in Bucks County,  
5 Pennsylvania. A true and correct copy of a Subsistence Certificate issued by the Pennsylvania  
6 Secretary of State is attached to *the accompanying Declaration of Craig A. Livingston in Support*  
7 as **Exhibit A**. This certificate confirms ELECTRIC BIKE is an active domestic business  
8 corporation in Pennsylvania.

9 3. Plaintiff ERIKA STEINWAND brings this action individually and as a Successor  
10 in Interest to the Estate of ENRIQUE SY, alleging she has complied with California Code of  
11 Civil Procedure section 377.32.<sup>1</sup> *Id.* at ¶ 2. Plaintiff ERIKA STEINWAND is the surviving  
12 daughter and heir of ENRIQUE SY, *id.* at ¶ 2, 4, and she is a resident of the State of Hawaii. *Id.*  
13 at ¶ 3.

14 4. Plaintiff ERIKA STEINWAND filed her wrongful death action on October 3,  
15 2023, in the Sacramento Superior Court, State of California (Case No. 23CV009398).

16 5. Defendant ELECTRIC BIKE is not a citizen of the State of California or the State  
17 of Hawaii.

18 6. The matter in controversy far exceeds the sum of \$75,000, exclusive of interest,  
19 attorneys' fees and costs. This is apparent from the face of the Complaint because plaintiff  
20 alleges that decedent ENRIQUE SY fell from the subject electric trike causing him to “strike his  
21 head, which caused a spinal cord injury resulting in him being paralyzed resulting in  
22 quadriplegia.” *Id.* at ¶ 9. Plaintiff’s decedent “lived for approximately two months as a  
23 quadriplegic before ultimately losing his lift to the injury.” The claimed damages resulting from  
24

---

25 <sup>1</sup> Plaintiff ERIKA STEINWAND filed a declaration in the state court action stating under  
26 penalty of perjury that she is the successor-in-interest to the decedent’s interest. See,  
27 “Declaration and Attachment Regarding Commencement of Action by Successor in Interest  
Pursuant to CCP Section 377.32” attached *hereto* as **Exhibit A**.



1 strict product liability. Complaint ¶¶10-11.

2 10. Defendant ELECTRIC BIKE caused to be filed an Answer to plaintiff's  
3 unverified Complaint on or about November 1, 2023. A true and correct copy of the Answer is  
4 attached hereto and marked as **Exhibit C**.<sup>3</sup> The Answer was served on plaintiff's counsel on  
5 October 31, 2023. *See*, Proof of Service attached to the Answer.

6 11. This Court has original jurisdiction of this action pursuant to 28 U.S.C. §1332,  
7 and the Complaint is one which may be removed to this Court by defendant ELECTRIC BIKE  
8 pursuant to the provisions of 28 U.S.C. §1441(b) in that it is a civil action between citizens of  
9 different states, and the amount in controversy exceeds the sum of \$75,000, exclusive of interest  
10 and costs.

11 12. In this action, only plaintiff ERIKA STEINWAND is the real party in interest, as  
12 she is the only plaintiff suing either in her individual capacity or as Successor in Interest to the  
13 Estate of ENRIQUE SY. Complaint ¶¶ 2 – 4, 14, 16 and 19. Neither nominal defendant, who are  
14 identified as defendants in the caption of the Complaint, is affirmatively seeking recovery of  
15 damages. "A federal court must disregard nominal or formal parties and rest jurisdiction only  
16 upon the citizenship of real parties to the controversy." *Navarro Savings Ass'n v. Lee*, 446 U.S.  
17 458, 461, 100 S. Ct. 1779, 64 L. Ed. 2d 425 (1980).

18 13. 28 U.S.C. section 1332(c)(2) provides that "the legal representative of the estate  
19 of a decedent shall be deemed to be a citizen only of the same State as decedent." 28 U.S.C. §  
20 1332(c)(2). Plaintiff ERIKA STEINWAND is therefore considered a resident of the State of  
21 California in her capacity as Successor in Interest to the Estate of ENRIQUE SY. However,  
22 insofar as plaintiff ERIKA STEINWAND is also suing for wrongful death damages in her  
23

---

24 <sup>3</sup> As set forth in the accompanying Livingston Declaration at para. 5 and **Exhibit B**,  
25 ELECTRIC BIKE's Answer to Plaintiff's Unverified Complaint was sent to One Legal on  
26 October 31, 2023 for filing on or before November 1. One Legal accepted the filing order and  
27 thereafter filed the Answer and tendered the first appearance fee. However, due to the serious  
28 backlog of filing in the Sacramento Superior Court clerk's office, the Answer does not yet appear  
on the court's docket for this case.

individual capacity, she may be considered “a citizen of and resident within the State of Hawaii.” Complaint ¶ 3. Thus, if she were to argue there is a lack of complete diversity because nominal defendant KRISTINE YULO is also a resident of the State of California, or because nominal defendant ROCHELLE SY is a resident of the State of Hawaii, such a position would ignore the well-established “nominal party” exception to the complete diversity requirement. “Defendants who are nominal parties with nothing at stake may be disregarded in determining diversity, despite the propriety of their technical joinder.” *Strotek Corp. v. Air Transport Ass’n. of America*, 300 F.3d 1129, 1133 (9th Cir. 2002)(citing *Prudential Real Estate Affiliates, Inc. v. PPR Realty, Inc.*, 204 F.3d 867, 873 (9th Cir. 2000)); *see also*, *Kuntz v Lamar Corp.*, 385 F.3d 1177, 1183 (9th Cir. 2004). Accordingly, there is complete diversity between plaintiff ERIKA STEINWAND, whether she is considered a citizen of the State of Hawaii in her individual capacity, or a resident of the State of California in her capacity as the Successor in Interest to the Estate of ENRIQUE SY, because the citizenship of nominal defendants ROCHELLE SY and KRISTINE YULO is disregarded, and defendant ELECTRIC BIKE is a citizen of the State of Pennsylvania.

14. Defendant Electric Bike did not seek or obtain the consent of nominal defendants ROCHELLE SY or KRISTINE YULO to remove this case. Although the usual rule is that all defendants in a state action must join in a petition for removal, the rule of unanimity does not apply to nominal parties. *United Computer Systems, Inc. v. AT & T Corp.*, 298 F.3d 756, 762 (9th Cir. 2002). Removal is therefore proper here even without the consent of either or both nominal defendants. *See, Stuefen v. MV Senior Living LLC*, 2016 U.S. Dist. LEXIS 145663 \*13 (N.D. Cal. 2016)[failure to obtain consent of nominal defendants in wrongful death action of no consequence]; *see also*, *Bates v. Mortgage Electronic Registration Sys., Inc.*, 694 F.3d 1076, 1080 (9th Cir. 2012) (citing *Navarro*)(nominal parties that would not benefit from a suit may be disregarded for determination of diversity jurisdiction); *Shuler v. EmeriCare Inc.*, 2017 U.S. Dist. LEXIS 118150 \*8-9; 2017 WL 3193647 (C.D. Cal. 2017)[citizenship of nominal defendants in wrongful death action irrelevant for purposes of diversity of citizenship analysis].

1 Based on the foregoing, defendant ELECTRIC BIKE respectfully requests that this Court  
2 accept removal of this action.

3 Dated: November 7, 2023

LIVINGSTON LAW FIRM

4  
5   
6

7 By \_\_\_\_\_

8 Craig A. Livingston  
9 Attorneys for Defendant  
ELECTRIC BIKE TECHNOLOGIES INC.

10 **DEMAND FOR JURY TRIAL**

11 Pursuant to Fed. R. Civ. P. 38(b), defendant ELECTRIC BIKE hereby demands a jury in  
12 the above-entitled action.

13 Dated: November 7, 2023

LIVINGSTON LAW FIRM

14  
15   
16

17 By \_\_\_\_\_

18 Craig A. Livingston  
19 Attorneys for Defendant  
ELECTRIC BIKE TECHNOLOGIES INC.

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on November 7, 2023, a true copy of the foregoing **PETITION FOR REMOVAL OF ACTION PURSUANT TO 28 U.S.C. § 1441(b) [DIVERSITY]; DEMAND FOR JURY TRIAL** was filed electronically with the Clerk of the Court using the CM/ECF system, which will automatically send email notification of such filing to the following attorneys of record:

Christopher W. Wood, Esq.  
Neil J. Ferrera, Esq.  
DREYER BABICH BUCCOLA WOOD  
CAMPORA, LLP  
20 Bicentennial Circle  
Sacramento, CA 95826  
Tel: (916) 379-3500  
Fax: (916) 379-3599  
Email: [DBBWC-ESERVICE@dbbwc.com](mailto:DBBWC-ESERVICE@dbbwc.com)

*Attorneys for Plaintiff ERIKA STEINWAND*

Service was accomplished as follows:

  X   **BY US MAIL, According to Normal Business Practices.** At my place of business at the above address, I sealed the above document(s) in an envelope addressed to the above, and I placed that sealed envelope for collection and mailing following ordinary business practices, for deposit with the U.S. Postal Service. I am readily familiar with the business practice at my place of business for the collection and processing of correspondence for mailing with the U.S. Postal Service. Correspondence so collected and processed is deposited with the U.S. Postal Service the same day in the ordinary course of business, postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 7, 2023, at Walnut Creek, California.

*/s/ Christine Williams*

Christine Williams

# EXHIBIT A



Filed

Superior Court of California  
Sacramento

10/03/2023

houstoj

By \_\_\_\_\_, Deputy

23CV009398

1 CHRISTOPHER W. WOOD, ESQ. / SBN: 193955  
2 NEIL J. FERRERA, ESQ. / SBN: 239823  
3 **DREYER BABICH BUCCOLA WOOD CAMPORA, LLP**  
4 20 Bicentennial Circle  
5 Sacramento, CA 95826  
6 Telephone: (916) 379-3500  
7 Facsimile: (916) 379-3599  
8 DBBWC-ESERVICE@dbbwc.com

9 Attorneys for Plaintiff

10  
11 SUPERIOR COURT OF CALIFORNIA

12 COUNTY OF SACRAMENTO

13 ERIKA STEINWAND, Individually and as  
14 Successor in Interest to the Estate of  
15 Decedent ENRIQUE SY,

16 Plaintiff,

17 v.

18 ELECTRIC BIKE TECHNOLOGIES INC.,  
19 ROCHELLE SY, KRISTINE YULO, and DOES 1  
20 through 50, inclusive,

21 Defendants.

Case No.:

**DECLARATION AND ATTACHMENT  
REGARDING COMMENCEMENT OF  
ACTION BY SUCCESSOR IN INTEREST  
PURSUANT TO CCP SECTION 377.32**

22 I, ERIKA STEINWAND, HEREBY DECLARE:

23 1. Decedent's name is ENRIQUE SY. Plaintiff is the surviving heir-at-law of Decedent.  
24 Plaintiff ERIKA STEINWAND is the surviving daughter of Decedent.

25 2. Decedent, ENRIQUE SY, deceased on February 7, 2022 in Sacramento, California.

26 3. A certified copy of the Certificate of Death of Decedent ENRIQUE SY is attached  
27 hereto as Exhibit "A".

28 4. No proceeding is now pending in California for administration of the Decedent's  
estate.

5. The declarant is the Decedent's successor in interest (as defined in CCP section  
377.11) and succeeds to the Decedent's interest in the subject action.

7. The declarant declares under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 29<sup>th</sup> day of September, 2023 in Sacramento, California.

7. The declarant declares under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 29<sup>th</sup> day of September, 2023 in Sacramento, California.

By: Erika Steinwand  
ERIKA STEINWAND

ERIKA STEINWAND

# EXHIBIT B



**SUMMONS**  
(CITACIÓ JUDICIAL)

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:**  
(AVISO AL DEMANDADO):

ELECTRIC BIKE TECHNOLOGIES INC., ROCHELLE SY,  
KRISTINE YULO, and DOES 1 through 50, inclusive,

Issued and Filed

Superior Court of California,  
Sacramento

10/04/2023

Houston

By \_\_\_\_\_, Deputy

23CV009398

**YOU ARE BEING SUED BY PLAINTIFF:**

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

ERIKA STEINWAND, Individually and as Successor  
in Interest to the Estate of Decedent ENRIQUE SY,

NOTICE: You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO: Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):

CASE NUMBER  
(Número del Caso):

Sacramento County Superior Court  
720 Ninth Street  
Sacramento, CA 95814

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
CHRISTOPHER W. WOOD, ESQ. / SBN: 193955 Dreyer Babich Buccola Wood Campora, LLP  
20 Bicentennial Circle (916) 379-3500  
Sacramento, CA 95826

DATE:  
(Fecha)

OCT - 4 2023

Clerk, by  
(Secretario)

J. HOUSTON

, Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)



**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

Electric Bike Technologies Inc.

3. ☒ on behalf of (specify):

under:

- ☒ CCP 416.10 (corporation)
- ☐ CCP 416.20 (defunct corporation)
- ☐ CCP 416.40 (association or partnership)
- ☐ other (specify):

- ☐ CCP 416.60 (minor)
- ☐ CCP 416.70 (conservatee)
- ☐ CCP 416.90 (authorized person)

4. ☒ by personal delivery on (date):



CHRISTOPHER W. WOOD, ESQ. / SBN: 193955  
NEIL J. FERRERA, ESQ. / SBN: 239823  
DREYER BABICH BUCCOLA WOOD CAMPORA, LLP  
20 Bicentennial Circle  
Sacramento, CA 95826  
Telephone: (916) 379-3500  
Facsimile: (916) 379-3599  
[DBBWC-ESERVICE@dbbwc.com](mailto:DBBWC-ESERVICE@dbbwc.com)

Attorneys for Plaintiff

Filed  
Superior Court of California,  
Sacramento  
10/03/2023  
houstoj  
By \_\_\_\_\_, Deputy  
23CV009398

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

ERIKA STEINWAND, Individually and as  
Successor in Interest to the Estate of  
Decedent ENRIQUE SY,

Plaintiff,

v.

ELECTRIC BIKE TECHNOLOGIES INC.,  
ROCHELLE SY, KRISTINE YULO, and DOES 1  
through 50, inclusive,

Defendants.

Case No.:

**COMPLAINT FOR WRONGFUL DEATH  
AND SURVIVOR'S ACTION**

**FIRST CAUSE OF ACTION**

**(Wrongful Death of ENRIQUE SY)**

Plaintiff ERIKA STEINWAND, individually as the Successor in Interest for ENRIQUE SY, deceased, complains against Defendants ELECTRIC BIKE TECHNOLOGIES INC., and DOES 1 through 50, inclusive, and alleges as follows:

1. The true names and capacities -- whether individual, corporate, associate or otherwise -- of Product defendants and DOES 1 through 50, are unknown to Plaintiffs, who therefore sue such DOES by such fictitious names. Plaintiffs will amend this Complaint to show their true names and capacities when the same have been ascertained. Each of the Defendants, and DOES 1 through 50, are legally responsible in some manner -- negligently, in warranty,

1 strictly, or otherwise -- based on the theories alleged in this Complaint.

2 2. Decedent ENRIQUE SY was the father of Plaintiff ERIKA STEINWAND. Further,  
3 Plaintiff ERIKA STEINWAND is the Successor in Interest to the Estate of ENRIQUE SY for purposes  
4 of bringing an action under CCP Section 377.30, et. seq., and has complied with CCP Section  
5 377.32

6 3. Plaintiff is now, and at all times herein mentioned was, a citizen of and resident  
7 within the State of Hawaii. Plaintiff further alleges that each Defendant ELECTRIC BIKE  
8 TECHNOLOGIES INC. is headquartered in Bucks County, State of Pennsylvania but doing business  
9 within the County of Sacramento, State of California. The amount in controversy is in excess of  
10 the minimal jurisdictional limits of this Court.

11 4. Plaintiff ERIKA STEINWAND is the surviving daughter, and heir of ENRIQUE SY,  
12 deceased.

13 5. Defendants ELECTRIC BIKE TECHNOLOGIES INC. and DOES 1 through 25 were the  
14 agents, employees or contractors of Defendants ELECTRIC BIKE TECHNOLOGIES INC. and DOES  
15 26 through 50 and were at all times acting within the course and scope of said agency,  
16 employment or contract, and with the permission, knowledge and consent of each remaining  
17 Defendants.

18 6. Defendants ELECTRIC BIKE TECHNOLOGIES INC. and DOES 1 through 25 also  
19 negligently hired, trained, and/or supervised Defendants ELECTRIC BIKE TECHNOLOGIES INC. and  
20 DOES 26 through 50 in such a fashion as to cause and/or contribute to the occurrence of the  
21 incident described herein.

22 7. Defendant ELECTRIC BIKE TECHNOLOGIES INC. and Does 1 through 50 are a  
23 Pennsylvania corporation. Defendant ELECTRIC BIKE TECHNOLOGIES INC. markets its products in  
24 California via the internet and social media. At all relevant times ELECTRIC BIKE TECHNOLOGIES  
25 INC. and Does 1 through 50 were in the business of designing, manufacturing, fabricating,  
26 assembling, marketing, distributing, selling and otherwise placing into the stream of commerce  
27 various electric vehicles and all originally manufactured components thereof, including the TRIKE  
28 at issue herein.



1           8.     At all relevant times ENRIQUE SY was the owner of the TRIKE. Mr. SY purchased it  
2 new from ELECTRIC BIKE TECHNOLOGIES INC. approximately two weeks prior to the subject  
3 incident.

4           9.     On November 30, 2021, Decedent ENRIQUE SY was operating a white Liberty Trike  
5 with a lithium-ion battery ("TRIKE") in the parking lot of the residential community in Sacramento,  
6 California where he lived. The decedent was riding the TRIKE in the parking lot so that he could  
7 familiarize himself with the TRIKE. As he was riding the TRIKE and making a turn, it tipped over  
8 causing him to fall and strike his head, which caused a spinal cord injury resulting in him being  
9 paralyzed resulting in quadriplegia. He lived for approximately two months as a quadriplegic  
10 before ultimately losing his life to the injury. The tip over occurred during ordinary, foreseeable  
11 operation of the TRIKE.

12           10.    The tip over was caused by the design and manufacturing defects in the TRIKE  
13 which was designed, manufactured, modified, and distributed by Defendant ELECTRIC BIKE  
14 TECHNOLOGIES INC. and DOES 1 through 50.

15           11.    ELECTRIC BIKE TECHNOLOGIES INC. and DOES 1 through 50, and each of them,  
16 caused Plaintiff's injuries and damages. Accordingly, Plaintiff asserts a wrongful death and  
17 personal injury cause of action against the above-named Defendants based on negligence and  
18 strict product liability theories under California Law.

19           12.    All Defendants were agents, principals, partners, and/or joint ventures with each  
20 other, and/or had some other relationship imposing vicarious liability on each Defendant such that  
21 all Defendants are legally liable for the acts and/or omissions of all other Defendants. At all times  
22 Defendants were acting within the course and scope of such agency, employment, contract, joint  
23 venture or other relationship and with the permission knowledge and consent of each of the other  
24 Defendants.

25           13.    As a direct result of Defendants' negligence, and the death of decedent  
26 ENRIQUE SY, Plaintiff ERIKA STEINWAND has sustained economic damages consisting of (1) the  
27 value of lost financial and other support from the decedent, (2) the value of gifts or benefits that  
28 the decedent would have provided, (3) the value of funeral and burial expenses, and (4) the

1 reasonable value of household services that the decedent would have provided.

2 14. As a direct result of Defendants' negligence, and the death of decedent  
3 ENRIQUE SY, Plaintiff ERIKA STEINWAND has sustained noneconomic damages consisting of loss  
4 of the decedent's love, companionship, comfort, care, assistance, protection, affection, society,  
5 and moral support.

6 Plaintiff ERIKA STEINWAND prays for judgment against Defendants for:

- 7 a. Noneconomic damages in excess of the minimum jurisdictional requirements of this  
8 Court;  
9 b. All funeral, burial and other expenses according to proof;  
10 c. Interest to the extent allowed by law;  
11 d. All loss of the decedent's care and support, according to proof;  
12 e. All costs of suit; and,  
13 f. Such other and further relief as this Court may deem just and proper.

14 **SECOND CAUSE OF ACTION**

15 **(Survivor's Action: ERIKA STEINWAND)**

16 As a separate second cause of action, Plaintiff ERIKA STEINWAND, as Successor in Interest  
17 to ENRIQUE SY, deceased, complains against Defendants ELECTRIC BIKE TECHNOLOGIES INC.,  
18 and DOES 1 through 50, and allege:

19 15. Plaintiff incorporate herein by reference each and every allegation contained in the  
20 first cause of action as though fully set forth.

21 16. Plaintiff ERIKA STEINWAND, as the daughter of the decedent, is the Successor in  
22 Interest to the decedent ENRIQUE SY, for purposes of bringing an action under CCP Section  
23 377.30, *et. seq.*, and has complied with CCP section 377.32.

24 17. Prior to his death, decedent ENRIQUE SY, was required to and did employ  
25 physicians, surgeons and health workers to examine, treat, and care for him as a result of the  
26 injuries sustained in the subject accident, and the decedent did incur medical and incidental  
27 expenses in connection therewith. The exact amount of such expense is unknown to Plaintiff at  
28 this time.



1 18. Prior to his death, ENRIQUE SY, experienced pain, suffering, and disfigurement in  
2 an amount to be determined by the trier of fact.

3 19. Prior to his death, decedent ENRIQUE SY, sustained damage to his personal  
4 property. The exact amount of such damage is unknown to Plaintiff at this time.

5 Plaintiff ERIKA STEINWAND prays for judgment against Defendants for:

- 6 a. All past medical expenses incurred by the decedent, according to proof;  
7 b. All pain, suffering, and disfigurement (C.C.P. § 377.34) according to proof;  
8 c. All past personal property damage incurred by the decedent, according to proof;  
9 d. All prejudgment interest;  
10 e. Costs of suit incurred herein; and,  
11 f. Such other and further relief as the Court may deem just and proper.

12 **THIRD CAUSE OF ACTION**

13 **(Nominal Defendants: ROCHELLE SY and KRISTINE YULO)**

14 Plaintiff incorporates by reference each and every allegation contained in the first and  
15 second causes of action.

16 20. ROCHELLE SY is the daughter of deceased, ENRIQUE SY, and is a resident of the  
17 State of Hawaii.

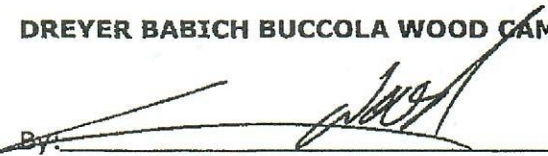
18 21. KRISTINE YULO is the daughter of deceased, ENRIQUE SY, and is a resident of the  
19 County of San Mateo, State of California.

20 22. Both ROCHELLE SY and KRISTINE YULO are being identified and disclosed as  
21 nominal defendants rather than Plaintiffs in this action which is authorized by C.C.P. § 382.

22 23. Both ROCHELLE SY and KRISTINE YULO have all of the same rights and causes of  
23 action as Plaintiff ERIKA STEINWAND and incorporate those claims and causes of action and pray  
24 for such relief as identified in the first and second causes of action.

25 DATED: September 22, 2023

DREYER BABICH BUCCOLA WOOD CAMPORA, LLP

26  
27 By:   
28 CHRISTOPHER W. WOOD

# EXHIBIT C

Craig A. Livingston – SBN 148551  
Amy E. Blair – SBN 292238  
LIVINGSTON LAW FIRM  
A Professional Corporation  
1600 South Main Street, Suite 280  
Walnut Creek, CA 94596  
Tel: (925) 952-9880  
Fax: (925) 952-9881  
Email: clivingston@livingstonlawyers.com  
ablair@livingstonlawyers.com

Attorneys for Defendant  
ELECTRIC BIKE TECHNOLOGIES, INC.

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO - UNLIMITED CIVIL

ERIKA STEINWAND, Individually and as	)	Case No. 23CV009398
Successor in Interest to the Estate of	)	
Decedent ENRIQUE SY,	)	<b>ANSWER OF DEFENDANT ELECTRIC</b>
	)	<b>BIKE TECHNOLOGIES, INC. TO</b>
Plaintiff,	)	<b>PLAINTIFF'S UNVERIFIED</b>
	)	<b>COMPLAINT</b>
v.	)	
	)	Complaint Filed: 10/04/23
ELECTRIC BIKE TECHNOLOGIES, INC.,	)	Trial Date: None
ROCHELLE SY, KRISTINE YULO, and	)	
DOES 1 THROUGH 50, inclusive,	)	
	)	
Defendants.	)	

COMES NOW defendant ELECTRIC BIKE TECHNOLOGIES, INC. and answers the  
unverified Complaint of ERIKA STEINWAND as follows:

**GENERAL DENIAL**

Under the provisions of California Code of Civil Procedure section 431.30, this  
answering defendant denies generally and specifically, conjunctively and disjunctively, each and  
every allegation contained in the Complaint and further denies that plaintiff and/or plaintiff's  
decedent has sustained damages in any sum or sums alleged, or any other sum or at all, as a  
result of any act or omission by or on behalf of this answering defendant.

///

---

*Steinwand, et al. v. Electric Bike Technologies, Inc., et al.* Sacramento County Case No. 23CV009398  
ANSWER OF DEFENDANT ELECTRIC BIKE TECHNOLOGIES, INC. TO PLAINTIFF'S UNVERIFIED  
COMPLAINT

**AFFIRMATIVE DEFENSES**

1  
2       **1. AS A FIRST, SEPARATE AND AFFIRMATIVE DEFENSE**, this answering  
3 defendant alleges that plaintiff fails to state a cause of action upon which relief can be granted  
4 against this answering defendant.

5       **2. AS A SECOND, SEPARATE AND AFFIRMATIVE DEFENSE**, this answering  
6 defendant alleges that each of the causes of action asserted in the Complaint is barred by the  
7 statute of limitations as set forth in the Code of Civil Procedure, including but not limited to  
8 section 335.1.

9       **3. AS A THIRD, SEPARATE AND AFFIRMATIVE DEFENSE**, this answering  
10 defendant alleges that plaintiff's decedent was concurrently and comparatively negligent in and  
11 about the matters referred to in said Complaint, and that said carelessness and negligence on his  
12 own part proximately and directly contributed to and caused the injuries, loss, and damages  
13 complained of by plaintiff, if any there were.

14       **4. AS A FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE**, this answering  
15 defendant alleges the injuries and damages complained of by plaintiff, if any there were, were  
16 either wholly or in part proximately caused by the negligence or other wrongful acts or  
17 omissions of persons or entities other than this answering defendant, and that said negligence or  
18 wrongful acts or omissions either are imputed to plaintiff by reason of their relationship with said  
19 persons or entities, or comparatively reduces the proportion of negligence and corresponding  
20 liability of this answering defendant, if any, which liability is specifically denied.

21       **5. AS A FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE**, this answering  
22 defendant alleges that plaintiff's decedent failed to exercise reasonable care and diligence to  
23 avoid loss and to minimize and mitigate damages, if any there were, and that this failure to  
24 mitigate damages alone aggravated any damages or injuries to plaintiff's decedent, if any, and  
25 therefore precludes or reduces recovery against this answering defendant.

26       **6. AS A SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE**, this answering  
27 defendant alleges that plaintiff's decedent had express knowledge of the risks and hazards set

1 forth in the Complaint, as well as the magnitude of the risks and hazards, and therefore  
2 knowingly and willingly assumed those risks.

3       **7. AS A SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE**, this answering  
4 defendant contends that if liability is assessed against it, pursuant to Civil Code section 1431 *et*  
5 *seq.*, defendant shall be liable only for the amount of non-economic damages allocated to it in  
6 direct proportion to the percentage of fault assessed against it by the trier of fact and requests that  
7 a separate judgment be rendered against it for that amount; but that defendant, in setting forth  
8 this affirmative defense, makes no admission that it is liable to plaintiff in any amount or in any  
9 proportion; and defendant, in setting forth this affirmative defense, makes no admission that  
10 plaintiff has been damaged in any sum or sums at all.

11       **8. AS AN EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE**, this answering  
12 defendant alleges that the subject Liberty Trike product, including its design, manufacture, and  
13 assembly were at all material times consistent with industry customs, applicable standards, and  
14 available technological, scientific, and industrial state-of-the-art.

15       **9. AS A NINTH, SEPARATE AND AFFIRMATIVE DEFENSE**, this answering  
16 defendant alleges that the subject Liberty Trike product was materially and/or substantially  
17 altered or changed from its original condition and that such alterations or changes were the  
18 causes of plaintiff's alleged damages, if there were any.

19       **10. AS A TENTH, SEPARATE AND AFFIRMATIVE DEFENSE**, this answering  
20 defendant alleges the use of the Liberty Trike product alleged in the Complaint by plaintiff's  
21 decedent constitutes unforeseeable misuse and that this misuse was the sole and proximate cause  
22 of plaintiff's alleged injuries and damages, if there were any.

23       **11. AS AN ELEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE**, this  
24 answering defendant alleges that plaintiff's damages resulted from a danger so commonly known  
25 by the general public that the defendant had no duty to warn plaintiff's decedent.

26       **12. AS A TWELFTH, SEPARATE AND AFFIRMATIVE DEFENSE**, this answering  
27 defendant alleges that plaintiff's claims are barred by the doctrine of laches.

1           13. **AS A THIRTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE**, this  
2 answering defendant alleges that plaintiff's claims are barred by the doctrine of unclean hands.

3           14. **AS A FOURTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE**, this  
4 answering defendant alleges that plaintiff's claims are barred by the doctrine of estoppel.

5           15. **AS A FIFTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE**, this  
6 answering defendant alleges that plaintiff's decedent failed to read and heed the Owner's Manual  
7 provided with the subject Liberty Trike product, or availed himself of several "how to" videos  
8 available on this answering defendant's website.

9           16. **AS A SIXTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE**, this  
10 answering defendant alleges that the injuries and damages complained of by plaintiff, if any  
11 there were, were either wholly or in part proximately caused by an intervening or superseding  
12 cause.

13           17. **AS A SEVENTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE**, this  
14 answering defendant alleges that plaintiff has waived, expressly or impliedly, the right to  
15 maintain this action against this answering defendant.

16           **WHEREFORE**, this answering defendant prays that plaintiff takes nothing by said  
17 Complaint, and this answering defendant be awarded costs of suit incurred herein and such other  
18 and further relief as the Court may deem just and proper.

19  
20 Dated: October 31, 2023.

LIVINGSTON LAW FIRM

21   
22

23 By: \_\_\_\_\_

24 Craig A. Livingston  
25 Attorneys for Defendant  
26 ELECTRIC BIKE TECHNOLOGIES, INC.  
27  
28

**PROOF OF SERVICE**

I, the undersigned, hereby declare that I am over the age of eighteen years and not a party to the within action. I am readily familiar with this firm's business practice for collection and processing of documents for mailing with the U.S. Postal Service. My business address is 1600 South Main Street, Suite 280, Walnut Creek, California 94596. On the date set forth below, I served the following document(s):

**ANSWER OF DEFENDANT ELECTRIC BIKE TECHNOLOGIES, INC. TO  
PLAINTIFF'S UNVERIFIED COMPLAINT**

upon the following at the address(es) stated below:

Christopher W. Wood, Esq.  
Neil J. Ferrera, Esq.  
DREYER BABICH BUCCOLA WOOD  
CAMPORA, LLP  
20 Bicentennial Circle  
Sacramento, CA 95826  
Tel: (916) 379-3500  
Fax: (916) 379-3599  
Email: [DBBWC-ESERVICE@dbbwc.com](mailto:DBBWC-ESERVICE@dbbwc.com)

*Attorneys for Plaintiff ERIKA STEINWAND*

Service was accomplished as follows:

  X   **BY US MAIL, According to Normal Business Practices.** At my place of business at the above address, I sealed the above document(s) in an envelope addressed to the above, and I placed that sealed envelope for collection and mailing following ordinary business practices, for deposit with the U.S. Postal Service. I am readily familiar with the business practice at my place of business for the collection and processing of correspondence for mailing with the U.S. Postal Service. Correspondence so collected and processed is deposited with the U.S. Postal Service the same day in the ordinary course of business, postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 31, 2023, at Walnut Creek, California.



Christine Williams